

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

DURAN IRVIN,)	
Plaintiff,)	
)	
v.)	C.A. No. 04-10218-MLW
)	
ANDREA CABRAWL, et al.)	
Defendants.)	

MEMORANDUM AND ORDER

For the reasons set forth below, plaintiff is directed to either pay the requisite filing fee or submit an Application to Proceed Without Prepayment of Fees and Affidavit or this action will be dismissed without prejudice.

BACKGROUND

On January 20, 2004 plaintiff Duran Irvin, now incarcerated at the Suffolk County House of Correction, submitted for filing his self-prepared, civil rights complaint against (1) Andrea Cabral, Suffolk County Sheriff; (2) Marie Lockhart, Deputy of Operation at the Suffolk County House of Correction; and (3) Mary Ellen Mastrorilli, Deputy Superintendent of the Suffolk County House of Correction.

DISCUSSION

A party filing a civil complaint in this Court must either (1) pay the \$150.00 filing fee or (2) file an Application to Proceed Without Prepayment of Filing Fees and Affidavit. See 28 U.S.C. 1914(a) (\$5.00 filing fee); 28

U.S.C. 1915 (proceedings in forma pauperis).

Because plaintiff is incarcerated, he is advised that pursuant to 28 U.S.C. § 1915(b)(1), prisoners are required to pay the full amount of the filing fee. If plaintiff files an application to proceed without prepayment of fees, the Court will direct the appropriate prison official to withhold from his prison account and pay to the court an initial payment towards the \$150.00 filing fee. The appropriate prison official will also be directed to collect from plaintiff's prison account on a continuing basis each month until such time as the \$150.00 statutory filing fee is paid in full.

Plaintiff is further advised that if he pays the fee or files an Application to Proceed Without Prepayment of Fees and Affidavit, his complaint is subject to preliminary screening pursuant to 28 U.S.C. §§ 1915, 1915A.

ORDER

Based upon the foregoing, it is hereby ORDERED that if plaintiff wishes to proceed with this action, he shall file, within forty-two (42) days of the date of this Procedural Order, an Application to Proceed Without Prepayment of Fees and Affidavit or pay the \$150.00 filing fee or this action will be dismissed without prejudice. The Clerk is directed to send plaintiff an Application to Proceed Without Prepayment of

Fees and Affidavit with this Order.

SO ORDERED.

Dated at Boston, Massachusetts, this 20th day of February,
2004.

/s/ Mark L. Wolf
MARK L. WOLF
UNITED STATES DISTRICT JUDGE